



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 2, 2004

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Environmental Justice News for the Week Ending April 2, 2004

FROM: Nicholas Targ, Counsel
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This summarizes environmental justice news for March 20, 2004, through April 2, 2004. Except as noted, this review is confined to Lexis/Nexis queries conducted under the following search: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/50 minorit! or low***income) or (executive order 12898) or (civil right! w/50 environmental)". Please note that we have not included multiple articles covering the same topic.

For the week ending April 2, 2004, the following news is current:

1. "Environmental Justice," City News Service, Los Angeles, California (April 1, 2004).

The article reports on the formation of the Environmental Justice Enforcement and Compliance Team in the Los Angeles City Attorney's Office. The team combines the use of multi-agency inspections, criminal prosecutions, civil litigation and community input to identify and take action against urban industrial pollution and uses a proactive and comprehensive way to protect disadvantaged communities in Los Angeles. The article reports that since 2003 more than 200 facilities have been inspected through a coordinated effort with the City Attorney's office and over 40 criminal cases relating to environmental violations have been filed.

2. Kate S. Peabody, "Teens warming up to reading program," The Times, Gainesville, Georgia (March 30, 2004).

The Boys and Girls Clubs in Gainesville, Georgia, and other organizations are helping to elevate reading proficiency of area youth. Book selections are designed to expose students to important, local issues, including environmental justice. Currently the students are reading, Newtown Story: One Community Fight for Environmental Justice, which describes the lives of people living in the Newtown area of Gainesville.

3. “US Activist Tour South Africa's Pollution Hotspots,” Global News Wire, (March 29, 2004).

The short article highlights a “toxic tour” in South Africa that is being taken by five environmental justice activists. The tour is sponsored by the South Durban Community Environmental Alliance. The article reports that, “South Durban has the largest concentration of petrochemical industries in the country and it refines approximately 60 percent of South Africa's petroleum and has been nicknamed ‘South Africa’s Cancer Alley,’ by local residents.”

4. “Neighborhood Report-- Latina Leader,” Daily News, New York, New York (March 28, 2004).

The article reports, “Environmental justice attorney Elizabeth Yeampierre has received the 2004 Latina Leadership Award of the National Foundation for Women Legislators and the National Council of La Raza. The award recognizes Latina women who exhibit exceptional leadership qualities and who are active participants in community life.”

5. Jill Noelle Cecil, “Schools Update,” The Leaf Chronicle, Clarksville, Tennessee (March 26, 2004).

Austin Peay State University in Clarksville, Tennessee, is sponsoring an environmental justice conference on April 2-3, 2004, at the African American Cultural Center. The conference is designed to help people better understand various issues affecting their environment.

6. Nicholas Grudin, “Settlement To Clean Up Dirtiest Air In L.A. Area,” The Daily News of Los Angeles, Los Angeles, California (March 24, 2004).

The article reports that, “South Coast Air Quality Management District officials agreed Tuesday to allocate \$1 million toward Los Angeles County's most polluted regions to settle a lawsuit filed last September by two environmental groups. The suit filed by Communities for a Better Environment and Our Children's Earth claimed the ADMD had mismanaged a program intended to cut down on industrial smog by granting companies a limited number of pollution credits and making them pay for excess.”

B. Legislation/Regulatory–

1. Testimony before the United States House of Representatives Reform Committee on “Washington, D.C. Drinking Water,” provided by Professor Ellen K. Silbergeld, PhD Bloomberg School of Public Health John Hopkins University (March 5, 20004).

In lengthy testimony on the presence of lead in Washington, D.C. drinking water, Professor Silbergeld criticized the DC Health Department’s recommendation that residents not use tap water. “[T]o recommend no consumption of tap water to thousands of DC residents is unconscionable, as if Marie Antoinette were running public health - let them drink Evian! Given the general socioeconomics of lead risks (which are the exemplar of environmental racism), it is likely that many of those at greatest risk will have the least means to purchase their own water.”

2. Notice, United States EPA Summary Comments pursuant to § 309 of the Clean Air Act, 69 Fed. Reg. 17403, “I-880/CA-92 Interchange Reconstruction, I-880 from Winton Avenue to Tennyson Road, Hayward, Alameda County, CA” (April 2, 2004).

The summary provides that, “EPA continues to have environmental concerns with the proposed project regarding construction-related air quality impacts and the potential for environmental justice impacts. EPA recommends that the Federal Highway Administration (FHWA) develop a detailed construction emissions mitigation plan for adoption in the ROD and that FHWA elicit and consider the views of effected minority and low-income populations on the construction mitigation plan.”

3. Notice, United States EPA Summary Comments pursuant to § 309 of the Clean Air Act, 69 Fed. Reg. 15828, “South Bay Salt Ponds Initial Stewardship Plan, To Maintain and Enhance the Biological and Physical Conditions, South San Francisco Bay, CA,” (March 26, 2004).

The summary provides that, “EPA expressed environmental concerns about how conclusions were reached regarding air emissions and environmental justice impacts. Concerns were also expressed about the hydraulic models, monitoring plan development, the alternatives analysis, and *Spartina alterniflora* eradication. EPA requested that the final EIS clarify or provide additional information to address these concerns.”

4. Louisiana, S.B. 406, “Health/Hospital Department Creates the Office of Minority Health within the Department of Health of Hospitals,” introduced by Diana E. Bajoie (D-District 5).

Among other provisions, R.S. 36:258(J) would require the Office of Minority Health to focus on, “Efforts to bolster the economic security of minorities, to address the discrimination they face, to reduce gun deaths and injuries and to improve the environment in which they live.”

5. Nebraska, L.R. 288, introduced by Senator Don Preister (D-5th Dist.) on March 25, 2004.

This resolution would designate the Natural Resources Committee of the Nebraska Legislature to prepare an interim report on environmental justice, hold public hearings, and develop recommendations for presentation to the Legislative Council or Legislature.
<http://216.239.51.104/search?q=cache:IjJOqkxWyokJ:www.unicam.state.ne.us/journal/2004/jday49.pdf+%22LEGISLATIVE+RESOLUTION+288%22+preister&hl=en&ie=UTF-8>

C. Litigation–

***Natural Arch and Bridge Society v. Alston*, No. 02-4099, 2004 U.S. App. LEXIS 5446 (9th Cir. March 23, 2004).**

Recreationalists appeal a lower court’s decision to dismiss their action for lack of standing. In the underlying claim, the appellants allege that a National Park Service (NPS) policy violates the Establishment Clause of the First Amendment of the United States Constitution. Upholding the district courts dismissal, the Ninth Circuit found that because the NPS policy only encourages recreationalists to voluntarily respect Tribal Sacred sites (by not walking under a natural arch) and the plaintiffs, in fact, did walk under the arch, the plaintiffs could show no harm sufficient for standing. Analogizing to a similar case, the Ninth Circuit held, “standing is not measured by

the intensity of a party's commitment, fervor, or aggression in pursuit of its alleged right and remedy,” but by demonstrated harm. *See* Bear Lodge Multiple Use Ass'n. v. Babbitt, 175 F.3d 814 (10th Cir. 1999), cert. denied, 529 U.S. 1037, 146 L. Ed. 2d 345, 120 S. Ct. 1530 (2000). Thus, the NPS policy remains in place.